

GREENBAUM, ROWE, SMITH & DAVIS LLP

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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

ROCKEFELLER PHOTOS, LLC.,

Plaintiff,

v.

SUSSEX MEAT PACKING, INC.

Defendant.

CIVIL ACTION NO. 2:25-cv-00188-CCC-AME

**ANSWER OF THIRD-PARTY DEFENDANT,
FTS SOLUTIONS, INC., TO THE THIRD-
PARTY COMPLAINT**

SUSSEX MEAT PACKING, INC.

Third-Party Plaintiff.

v.

FTS SOLUTIONS, INC.

Third-Party Defendant.

Third-Party Defendant, FTS Solutions, Inc. (“FTS”), by and through its counsel, Greenbaum, Rowe Smith & Davis LLP, by way of Answer to the Third-Party Complaint of Defendant/Third-Party Plaintiff, Sussex Meat Packing (“Sussex”), hereby states:

PARTIES

1. It is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 1.

2. It admits the allegations contained in Paragraph 2.

JURISDICTION AND VENUE

3. This paragraph contains a statement of law as to which no response is required.
4. This paragraph contains a statement of law as to which no response is required.
5. This paragraph contains a statement of law as to which no response is required.

FACTS COMMON TO ALL COUNTS

6. It admits the allegations contained in Paragraph 6.
7. It denies the allegations contained in Paragraph 7 and further states that Exhibit A was not attached to the Third Party Complaint.
8. It admits the allegations contained in Paragraph 8.
9. It admits the allegations contained in Paragraph 9.
10. It denies the allegations contained in Paragraph 10.
11. It denies the allegations contained in Paragraph 11.
12. It is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 12.
13. It denies the allegations contained in Paragraph 13.
14. It is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 14.
15. It is without knowledge of information sufficient to form a belief as to the truth of the allegations contained in Paragraph 15.
16. It is without knowledge of information sufficient to form a belief as to the truth of the allegations contained in Paragraph 16.

17. It denies the allegations contained in Paragraph 17, except to state that it is without knowledge or information sufficient to form a belief as to what Sussex knew or did not know about the subject photograph.

18. It denies the allegations contained in Paragraph 18, except to state that it is without knowledge or information sufficient to form a belief as to whether the subject photograph remained on Sussex's website.

19. It is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 19.

20. It is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 20.

21. It is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 21.

22. It denies the allegations contained in Paragraph 22.

AS TO COUNT 1

23. It repeats its responses to the preceding paragraphs of the Complaint as if set forth herein.

24. It denies the allegations contained in Paragraph 24.

25. It denies the allegations contained in Paragraph 25, except to state that Sussex paid FTS for certain services provided by FTS.

26. It is without knowledge or information sufficient to form a belief as to the allegations contained in Paragraph 26.

27. It denies the allegations contained in Paragraph 27.

28. It denies the allegations contained in Paragraph 28.

AS TO COUNT II

29. It repeats its responses to the preceding paragraphs of the Complaint as if set forth herein.

30. This paragraph contains a statement of law as to which no response is required.

31. It is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 31.

32. It denies the allegations contained in Paragraph 32.

33. It denies the allegations contained in Paragraph 33.

34. It denies the allegations contained in Paragraph 34.

AS TO COUNT III

35. It repeats its responses to the preceding paragraphs of the Complaint as if set forth herein.

36. It admits the allegations contains in Paragraph 36.

37. It denies the allegations contained in Paragraph 37.

38. It denies the allegations contained in Paragraph 38.

39. It denies the allegations contained in Paragraph 39.

40. It denies the allegations contained in Paragraph 40.

41. It denies the allegations contained in Paragraph 41.

42. It denies the allegations contained in Paragraph 42.

43. It denies the allegations contained in Paragraph 43.

AS TO COUNT IV

44. It repeats its responses to the preceding paragraphs of the Complaint as if set forth herein.

45. It denies the allegations contained in Paragraph 45.

46. It denies the allegations contained in Paragraph 46.

AS TO COUNT V

47. It repeats its responses to the preceding paragraphs of the Complaint as if set forth herein.

48. It denies the allegations contained in Paragraph 48.

49. It denies the allegations contained in Paragraph 49.

AS TO COUNT VI

50. It repeats its responses to the preceding paragraphs of the Complaint as if set forth herein.

51. It denies the allegations contained in Paragraph 51.

52. It denies the allegations contained in Paragraph 52.

53. It denies the allegations contained in Paragraph 53.

54. It denies the allegations contained in Paragraph 54.

55. It denies the allegations contained in Paragraph 55.

56. It denies the allegations contained in Paragraph 56.

WHEREFORE, FTS demands judgment dismissing the Third-Party Complaint with prejudice and costs of suit.

AFFIRMATIVE DEFENSES

FTS reserves the right to assert additional defenses, affirmative defenses, counterclaims or fourth-party claims not asserted herein that discovery or other investigation indicates may be appropriate. FTS also reserves the right to withdraw any defenses or affirmative defenses that it determines are not applicable during the course of discovery or other proceedings in this action.

FIRST AFFIRMATIVE DEFENSE

The Third-Party Complaint fails to state a claim upon which relief can be granted.

SECOND AFFIRMATIVE DEFENSE

No act or omission by FTS was the proximate cause of any loss or damage to Sussex.

THIRD AFFIRMATIVE DEFENSE

Sussex's claims are barred by its own breaches of contract.

FOURTH AFFIRMATIVE DEFENSE

The Third-Party Complaint is barred, in whole or in part, by the doctrines of waiver, estoppel, and/or laches.

FIFTH AFFIRMATIVE DEFENSE

Sussex's claims are barred, in whole or in part, because it ratified the alleged wrongful acts and omissions alleged in the Third-Party Complaint.

SIXTH AFFIRMATIVE DEFENSE

Sussex's claims are barred, in whole or in part, by its own actions, omissions and/or negligence.

SEVENTH AFFIRMATIVE DEFENSE

Sussex's claims are barred, in whole or in part, because it had a duty to take reasonable action to minimize and mitigate any damage allegedly sustained as a result of the facts alleged in the Third-Party Complaint, and Sussex failed to comply with that duty.

EIGHTH AFFIRMATIVE DEFENSE

Sussex's claims are barred, in whole or in part, because Sussex has incurred no legally cognizable injury or damages, including, but not limited to, any legally cognizable injury or damages attributable, in whole or in part, to the conduct of FTS.

NINTH AFFIRMATIVE DEFENSE

Sussex's claims are barred, in whole or in part, by applicable statutes of limitations or other rule, regulation or doctrine requiring the commencement of an action within a certain prescribed period of time or by a certain date.

TENTH AFFIRMATIVE DEFENSE

The damages Sussex seeks, if awarded, would result in an unjust enrichment to Sussex.

ELEVENTH AFFIRMATIVE DEFENSE

Sussex's claims are barred or limited, in whole or in part, by Sussex's lack of standing.

TWELTH AFFIRMATIVE DEFENSE

No act or omission attributed to FTS in the Third-Party Complaint was the actual or proximate cause of any alleged injury suffered by Sussex, and no act or omission attributed to FTS caused the alleged loss for which the Sussex seeks to recover damages. Moreover, FTS is not liable for any alleged damages suffered by Sussex to the extent that the negligent, reckless, or willful acts of others constituted independent, intervening, and superseding causes, relieving FTS of any liability, or to the extent that Sussex's purported injuries and damages, if any, were proximately caused or contributed to, in whole or in part, by Sussex itself.

THIRTEENTH AFFIRMATIVE DEFENSE

Other parties not named in the Third-Party Complaint may be indispensable parties to this action.

FOURTEENTH AFFIRMATIVE DEFENSE

Sussex knowingly assumed the risk of using images from a third party without independently verifying the ownership or license terms.

FIFTEENTH AFFIRMATIVE DEFENSE

Any actions taken by FTS do not constitute a violation of the Copyright Act or otherwise constitute fair use of the alleged copyright.

SIXTEENTH AFFIRMATIVE DEFENSE

FTS did not benefit from any alleged infringement of any copyright interest held by Plaintiff.

SEVENTEENTH AFFIRMATIVE DEFENSE

FTS did not know of any alleged infringement of any copyright interest held by Plaintiff.

EIGHTEENTH AFFIRMATIVE DEFENSE

FTS did not directly or intentionally infringe upon any copyright interest held by Plaintiff.

NINETEENTH AFFIRMATIVE DEFENSE

FTS is not directly, vicariously or contributorily liable for any alleged infringement by any other party of any copyright interest held by the plaintiff.

WHEREFORE, FTS demands judgment dismissing the Third-Party Complaint with prejudice and costs of suit.

CERTIFICATION PURSUANT TO L. CIV. R. 11.2

I hereby certify, pursuant to Local Civil Rule 11.2, that the matter in controversy is not, to the best of my knowledge, information, and belief, the subject of any other action pending in any Court or of any pending arbitration or administrative proceeding. I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

GREENBAUM, ROWE, SMITH & DAVIS LLP
Attorneys for Third-Party Defendant FTS Solutions,
Inc.

By: _____



Alan S. Naar, Esq.

Dated: May 30, 2025

CERTIFICATION OF SERVICE

I certify that on May 30, 2025, a copy of the foregoing Answer the Third-Party Complaint was served on all counsel of record via the Court's CM/ECF system.

GREENBAUM, ROWE, SMITH & DAVIS LLP
Attorneys for Third-Party Defendant FTS Solutions,
Inc.

By: _____



Alan S. Naar, Esq.

Dated: May 30, 2025